



EXPRESS MAIL NO. EV 079961435US

#14

64-08-03

D A C #

PATENTS
JP/001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicant : Joseph F. Pinkerton

Application No. : 09/885,367 Confirmation No. : 4177

Filed : June 20, 2001

For : ENERGY CONVERSION SYSTEMS USING
NANOMETER SCALE ASSEMBLIES AND METHODS
FOR USING SAME

Group Art Unit : 2834

Examiner : Joseph Waks

New York, New York 10020
April 3, 2003BOX DAC
Hon. Commissioner for Patents
P.O. Box 2327
Arlington, Virginia 22202PETITION UNDER 37 C.F.R. § 1.137(b,f) FOR REVIVAL
OF UNINTENTIONALLY ABANDONED PATENT APPLICATION

Sir:

Pursuant to 37 C.F.R. § 1.137(b,f), applicant hereby petitions for revival of the above-identified patent application, which may have become abandoned because the above-identified patent application was filed in another country that requires publication of applications eighteen months after filing and applicant unintentionally may have failed to notify the Patent and Trademark Office of that foreign filing within forty-five days thereof.

37 C.F.R. § 1.137(b)(1)

This petition is accompanied by a notification under 37 C.F.R. § 1.213(c) that the above-identified patent application was filed in another country that requires publication of applications eighteen months after filing.

04/09/2003 CV0111 00000105 09885367

01 FC:2453

650.00 OP

RECEIVED

APR 09 2003

OFFICE OF PETITIONS

37 C.F.R. § 1.137(b) (2)

A check in the amount of \$650.00, in payment of the petition fee set forth in 37 C.F.R. § 1.17(m), is enclosed herewith. The Director is hereby authorized to charge any additional fee that may be due, or to credit any overpayment, in connection with this Petition, to Deposit Account No. 06-1075. A duplicate copy of this Petition is enclosed herewith.

37 C.F.R. § 1.137(b) (3)

Any delay in notifying the Patent and Trademark Office that the above-identified patent application was filed in another country that requires publication of applications eighteen months after filing, including the delay in filing this petition, was unintentional.

Applicant filed a Rescission Under 37 C.F.R. § 1.213(b) Of Nonpublication Request on May 6, 2002, prior to the earliest foreign filing (June 20, 2002) of the above-identified patent application. The Rescission was filed in a format based on the original Patent and Trademark Office form for such rescissions, which did not include a notification that foreign filing had occurred (and indeed, at the time of filing the rescission, foreign filing had not yet occurred).

Applicant understood, based on the original Patent and Trademark Office form, that filing of the rescission met the requirement for notifying the Patent and Trademark Office that foreign filing had occurred.

The undersigned learned on April 1, 2003 that the Patent and Trademark Office had changed its form for rescission of a nonpublication request to include an explicit notification of foreign filing, and that under the Patent and Trademark Office's current interpretation of 37 C.F.R. § 1.213(c), the mere rescission of a nonpublication request does not satisfy the requirement that the Patent and Trademark Office be notified that an application in which a nonpublication request had been filed

has been filed in a foreign country that publishes applications after eighteen months. In view of that interpretation, applicant in an abundance of caution has prepared and is filing this Petition immediately.

Request for Retroactive Effect

Applicant further respectfully requests that revival of the above-identified patent application be granted retroactively to August 4, 2002, the date that is forty-five days after the earliest foreign filing.

Conclusion

Prompt grant of this petition is respectfully requested.

Respectfully submitted,



JEFFREY D. MULLEN
Reg. No. 52,056
Agent for Applicant
FISH & NEAVE
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1105
Tel.: (212) 596-9000

RECEIVED

APR 09 2003

OFFICE OF PETITIONS